

THE HONORABLE RICHARD A. JONES
THE HONORABLE BRIAN A. TSUCHIDA

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

and,

MARIA CRUZ CONTRERAS and
SOFIA VERA RODRIGUEZ,

Plaintiff-Intervenors,

vs.

GIPHX10, LLC d/b/a "HAWTHORN
SUITES BY WYNDHAM,"

Defendant,

and,

JAFFER, INC., a Canadian corporation,

Defendant.

CIVIL ACTION NO.
2:20-cv-01369-RAJ-BAT

STIPULATED PROTECTIVE ORDER

NOTE ON MOTION CALENDAR:
June 29, 2021

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

2. "CONFIDENTIAL" MATERIAL

"Confidential" material shall include the following documents and tangible things produced or otherwise exchanged:

- (a) records reflecting medical conditions or treatments of any current or former employee of defendant, including plaintiff-intervenors;
- (b) financial and proprietary documents of either plaintiff-intervenors or defendants not in the public domain or subject to public disclosure;
- (c) Defendant's financial information, financial records, and related documents;
- (d) documents containing or disclosing trade secrets, confidential business information, intellectual property, or competitive strategic initiatives, business plans or analyses, where such information is not readily ascertainable and the party asserting confidentiality has taken reasonable steps to maintain its confidentiality; information that any party is obligated by contract, state law, or federal law to keep confidential.

3. SCOPE

The protections conferred by this agreement cover not only confidential material (as defined above), but also (1) any information copied or extracted from confidential material; (2) all

copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony, conversations, or presentations by parties or their counsel that might reveal confidential material.

However, the protections conferred by this agreement do not cover information that is in the public domain or becomes part of the public domain through trial or otherwise.

4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

4.1 Basic Principles. A receiving party may use confidential material that is disclosed or produced by another party or by a non-party in connection with this case only for prosecuting, defending, or attempting to settle this litigation, or for consent decree enforcement (if any). Confidential material may be disclosed only to the categories of persons and under the conditions described in this agreement. Confidential material must be stored and maintained by a receiving party at a location and in a secure manner that ensures that access is limited to the persons authorized under this agreement.

4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the court or permitted in writing by the designating party, a receiving party may disclose any confidential material only to:

(a) the receiving party's counsel of record in this action, as well as employees of counsel to whom it is reasonably necessary to disclose the information for this litigation;

(b) the officers, directors, and employees (including counsel) of the receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties agree that a particular document or material produced is for Attorney's Eyes Only and is so designated;

(c) each Charging Party/Plaintiff-Intervenor as reasonably needed for deposition preparation, mediation, trial preparation, or for any other purpose related to this litigation;

(d) experts and consultants, or mediators who the parties have jointly designated for purposes of attempting to resolve this case, to whom disclosure is reasonably

1 necessary for this litigation and who have signed the “Acknowledgment and Agreement to Be
2 Bound” (Exhibit A);

3 (d) the court, court personnel, and court reporters and their staff;

4 (e) copy or imaging services retained by counsel to assist in the duplication of
5 confidential material, provided that counsel for the party retaining the copy or imaging service
6 instructs the service not to disclose any confidential material to third parties and to immediately
7 return all originals and copies of any confidential material;

8 (f) during their depositions, witnesses in the action to whom disclosure is
9 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”
10 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of
11 transcribed deposition testimony or exhibits to depositions that reveal confidential information
12 must be separately bound by the court reporter and may not be disclosed to anyone except as
13 permitted under this agreement;

14 (g) the author or recipient of a document containing the information or a
15 custodian or other person who otherwise possessed or knew the information.

16 4.3 Filing Confidential Material. Before filing confidential material or discussing or
17 referencing such material in court filings, the filing party shall confer with the designating party,
18 to determine whether the designating party will remove the confidential designation, whether the
19 document can be redacted, or whether a motion to seal or stipulation and proposed order is
20 warranted. During the meet and confer process, the designating party must identify the basis for
21 sealing the specific confidential information at issue, and the filing party shall include this basis in
22 its motion to seal, along with any objection to sealing the information at issue. A party who seeks
23 to maintain the confidentiality of its information must satisfy the requirements of Local Civil Rule
24 5(g)(3)(B), even if it is not the party filing the motion to seal.

1 5. DESIGNATING PROTECTED MATERIAL

2 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party
3 or non-party that designates information or items for protection under this agreement must take
4 care to limit any such designation to specific material that qualifies under the appropriate
5 standards. The designating party must designate for protection only those parts of material,
6 documents, items, or oral or written communications that qualify, so that other portions of the
7 material, documents, items, or communications for which protection is not warranted are not swept
8 unjustifiably within the ambit of this agreement.

9 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
10 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
11 unnecessarily encumber or delay the case development process or to impose unnecessary expenses
12 and burdens on other parties) expose the designating party to sanctions.

13 If it comes to a designating party's attention that information or items that it designated for
14 protection do not qualify for protection, the designating party must promptly notify all other parties
15 that it is withdrawing the mistaken designation.

16 5.2 Manner and Timing of Designations. Except as otherwise provided in this
17 agreement, or as otherwise stipulated or ordered, disclosure or discovery material that qualifies for
18 protection under this agreement must be clearly so designated before or when the material is
19 disclosed or produced.

20 (a) Information in documentary form: (*e.g.*, paper or electronic documents and
21 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings),
22 the designating party must affix the word "CONFIDENTIAL" to each page that contains
23 confidential material. If only a portion or portions of the material on a page qualifies for protection,
24 the producing party also must clearly identify the protected portion(s) (*e.g.*, by making appropriate
25 markings in the margins).

1 (b) Testimony given in deposition or in other pretrial proceedings: the parties
2 and any participating non-parties must identify on the record, during the deposition or other pretrial
3 proceeding, all protected testimony, without prejudice to their right to so designate other testimony
4 after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the
5 transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or
6 exhibits thereto, as confidential. If a party or non-party desires to protect confidential information
7 at trial, the issue should be addressed during the pre-trial conference.

8 (c) Other tangible items: the producing party must affix in a prominent place
9 on the exterior of the container or containers in which the information or item is stored the word
10 "CONFIDENTIAL." If only a portion or portions of the information or item warrant protection,
11 the producing party, to the extent practicable, shall identify the protected portion(s).

12 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to
13 designate qualified information or items does not, standing alone, waive the designating party's
14 right to secure protection under this agreement for such material. Upon timely correction of a
15 designation, the receiving party must make reasonable efforts to ensure that the material is treated
16 in accordance with the provisions of this agreement.

17 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

18 6.1 Timing of Challenges. Any party may challenge a designation of confidentiality at
19 any time. Unless a prompt challenge to a designating party's confidentiality designation is
20 necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a
21 significant disruption or delay of the litigation, a party does not waive its right to challenge a
22 confidentiality designation by electing not to mount a challenge promptly after the original
23 designation is disclosed.

24 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
25 regarding confidential designations without court involvement. Any motion regarding confidential
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designations or for a protective order must include a certification, in the motion or in a declaration or affidavit, that the movant has engaged in a good faith meet and confer conference with other affected parties in an effort to resolve the dispute without court action. The certification must list the date, manner, and participants to the conference. A good faith effort to confer requires a face-to-face meeting or a telephone conference.

6.3 Judicial Intervention. If the parties cannot resolve a challenge without court intervention, the designating party may file and serve a motion to retain confidentiality under Local Civil Rule 7. The burden of persuasion in any such motion shall be on the designating party. Frivolous challenges, and those made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other parties) may expose the challenging party to sanctions. All parties shall continue to maintain the material in question as confidential until the court rules on the challenge.

7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as “CONFIDENTIAL,” that party must:

(a) promptly notify the designating party in writing and include a copy of the subpoena or court order;

(b) promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this agreement. Such notification shall include a copy of this agreement; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party whose confidential material may be affected.

1 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

2 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential
3 material to any person or in any circumstance not authorized under this agreement, the receiving
4 party must immediately (a) notify in writing the designating party of the unauthorized disclosures,
5 (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the
6 person or persons to whom unauthorized disclosures were made of all the terms of this agreement,
7 and (d) request that such person or persons execute the "Acknowledgment and Agreement to Be
8 Bound" that is attached hereto as Exhibit A.

9 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
10 MATERIAL

11 When a producing party gives notice to receiving parties that certain inadvertently
12 produced material is subject to a claim of privilege or other protection, the obligations of the
13 receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision
14 is not intended to modify whatever procedure may be established in an e-discovery order or
15 agreement that provides for production without prior privilege review. The parties agree to the
16 entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

17 10. NON-TERMINATION AND RETURN OF DOCUMENTS

18 Within 60 days after the termination of this action, including all appeals, each receiving
19 party must return all confidential material to the producing party, including all copies, extracts and
20 summaries thereof. Alternatively, the parties may agree upon appropriate methods of destruction.

21 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
22 documents even if such materials contain confidential material. The archival copy is subject to
23 the provisions of this Protective Order.

24 The confidential obligations imposed by this agreement shall remain in effect until a
25 designating party agrees otherwise in writing or a court orders otherwise. Nothing in this Protective
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Order shall be interpreted as limiting or overriding the EEOC's obligations to maintain copies of files pursuant to the Federal Records Act.

The confidentiality obligations imposed by this agreement shall remain in effect until a designating party agrees otherwise in writing or a Court orders otherwise.

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

DATED: June 29, 2021

/s/ Sean M. Phelan

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DATED: June 29, 2021

/s/ Carmen Flores

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DATED: June 29, 2021

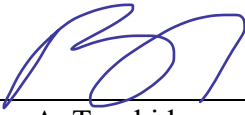
/s/ Aaron v. Roche

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1 PURSUANT TO STIPULATION, IT IS SO ORDERED

2 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any
3 documents in this proceeding, standing alone, shall not, for the purposes of this proceeding or any
4 other federal or state proceeding, constitute a waiver by the producing party of any privilege
5 applicable to those documents, including the attorney-client privilege, attorney work-product
6 protection, or any other privilege or protection recognized by law.

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8 DATED: June 29, 2021

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11 Brian A. Tsuchida
12 Chief United States Magistrate Judge
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1 EXHIBIT A

2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [print or type full name], of
4 _____ [print or type full address], declare under penalty of
5 perjury that I have read in its entirety and understand the Stipulated Protective Order that was
6 issued by the United States District Court for the Western District of Washington on [date] in the
7 case of *EEOC v. GIPHX10, LLC d/b/a "Hawthorn Suites by Wyndham," and Maria Cruz*
8 *Contreras and Sofia Vera Rodriguez v. GIPHX10, LLC d/b/a "Hawthorn Suites by Wyndham,"*
9 *and Jaffer Inc.*, 2:20-cv-01369-RAJ-BAT.

10 I agree to comply with and to be bound by all the terms of this Stipulated Protective Order
11 and I understand and acknowledge that failure to so comply could expose me to sanctions and
12 punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner
13 any information or item that is subject to this Stipulated Protective Order to any person or entity
14 except in strict compliance with the provisions of this Order.

15 I further agree to submit to the jurisdiction of the United States District Court for the
16 Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective
17 Order, even if such enforcement proceedings occur after termination of this action.

18 Date: _____

19 City and State where sworn and signed: _____

20 Printed name: _____

21 Signature: _____